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ROMANIAN LEGISLATION REGARDING THE REGULATION OF MARKETING COMMUNICATION

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Abstract. *An essential condition of the efficiency of communication actions is the existence of a regulating and self-regulating frame discouraging the bad practices, which disappoint the consumers and create a bad image of the whole of the operators in the economic and social environment. There is no unitary regulation of the marketing communication in Romania, the legislation being always behind the theory and the practice in the field. In this paper we have mentioned and analysed some of the normative documents existing on the component elements of the marketing communication and we have tried to emphasize some deficiencies, both in relation to the speciality theory as well as in relation to the usual practices in Romania.*

Keywords: communication, marketing, Romanian legislation.

1. The conceptual delineation of the *marketing communication* and the research methodology

The study of the national legislation regulating the marketing communication requires the definition of the *marketing communication* concept. This concept is treated in the speciality literature according to its relation with the promotion concept, many times the terms being equalled. In the speciality literature there is no clear distinction between the promotional strategy and that of the communications, the treatment of one automatically involving the treatment of the others. It is considered that the improvement of the communication processes between the parts represents an essential condition of a successful promotion. Therefore, there is no promotion without communication, an absolutely true condition, but there is communication without direct promotion.

Ph. Kotler uses for the promotional instruments the concept of "marketing communication" (Kotler, 1997, p.756).

The concept of *marketing communication – communications* has several **acceptations**. It is spoken about **marketing internal communications –** the communication inside the organization and the **external marketing communications** – the communication with the market and other external categories of public.

The marketing communications are divided into: promotional communications (**advertising –public relations, advertisement, sales promotion, direct marketing**

and the sales force) and continuous communication (**brand, design, architectonic etc**). In reality, a firm, an organization etc. really communicates with the market through all the components of its marketing mix: **product, price, distribution** and obviously **promotion.** A concept supporting the necessity that all the marketing actions collaborate for the increase of the communication is the *integrated communicational marketing*.

D.E. Schultz defines the integrated communicational marketing as follows: "The *integrated communicational marketing* is a concept of the marketing communications planning which admits the supplementary value of a complete plan, which evaluates the strategic role of the variety of the communication disciplines (…) and combines these disciplines so that they provide clarity, consistency and they maximize the impact of the communication" (Kitchen, 1999, p.93). Other definitions emphasize the role of the integrated marketing communications to identify a core of the message which should send impulses in all the promotional actions, in order to maximize the persuasive character of the message.

Any commercial activity has as objective to earn a profit so that all its actions, directly or indirectly, support this. Being a commercial activity, the profit will come from sales so that all the actions of the enterprise tend to stimulate, directly or indirectly, the sales. Largely, all the marketing activities have in view the promotion of sales and, due to it, more and more authors would rather replace the term promotion with that of "communication", that is "informative and persuasive communications" (Drăgan and Demetrescu, 1999, p.192).

The Romanian legislation regulating the marketing communications-communication is made up of legislative acts and measures referring to the component elements of the marketing communications. Aspects referring to the marketing communication are to be found treated unequally, sporadically, incompletely, and seldom in a confusing manner in different legislative acts.

In our approach we will have in view the way in which the promotional techniques are regulated in Romania: advertising (publicity), sales promotion, public relations, brand and sales force usage.

We will start by studying the most used promotion technique taking into account the investments and this is the advertising, which occurs in the legislation under the name of publicity.

The right to a correct information, the basic advertising message, is regulated in the **Ordinance no 21/1992 regarding the consumer protection,** published in the Official Monitor no 212, 1992.

The fundamental rights of the consumers are:

a) to be protected against the risk of purchasing a product or being provided with a service which might put their life, health or safety in danger or it might affect their legitimate rights and interests;

b) to be fully and accurately informed about the essential features of products and services so that the decision made in connection to these suits, as good as possible, their needs, as well as to be educated as consumers;

All these communicational actions are subscribed for these Ordinances regarding the protection of the consumers. The necessity to *completely, accurately and precisely inform about the essential features of products and services* is rather a goal that a provision possible to comply with. Moreover, we ask ourselves to what extent a promotional message of a firm, based on profit, could be objective, educative, and impartial. .

The research methodology of the way in which the marketing communication was regulated in Romania had the following stages:

- the conceptual delineation of the marketing communication emphasising the component elements;
- the inventory of all the normative documents in force in Romania directly or indirectly referring to the component elements of the marketing communication or to the communication with the clients, in general;
- the analysis of the way in which the existing legislation in the field of the marketing communication is debated upon in the speciality media or general media;
- the (partial) analysis of the existing legislation in relation to the practices in the filed in order to emphasize the causes of possible inconsistencies.

2. The regulation of advertising (PUBLICITY)

The most recent law in the filed of advertising is ***Law no 158/18.07.2008 regarding the misleading publicity and the comparative publicity*** which comes as a supplement to ***Law no148/2000- the law of publicity.***

Law no148/26.07.2000 regarding publicity has as declared goal the protection of the product and service consumers, the protection of the individuals performing a production, trade activity, providing a service or doing a work or a profession, as well as the protection of the interest of the general public against the misleading publicity, of the negative consequences of the publicity and it establishes the conditions in which the comparative publicity is allowed.

Analysing this law, we notice from the very beginning a vice, meaning it begins with an inaccurate definition, which does not correspond to any of the speciality bibliographical references on the Romanian or foreign market: *"publicity – any form of presentation of a commercial, industrial, artisan or freelance activity , having as objective the promotion of the sale of goods and services, rights and obligations sale"***.**

The definition is also repeated in the same form in ***Law no 158/18.07.2008, which*** fully expresses the provisions of the Norm no 2006/114/CE of the European Parliament and of the European Union Council of 12.12.2006.

Unfortunately the law defines publicity by totally ignoring the speciality bibliography, leading, from the very beginning, to a confusion of terms.
This definitions generates the following errors:

- publicity is defined through another promotion technique –*sales promotion* – which is another promotion technique;
- it is not clear whether through this definition publicity is assimilated to the advertising or to the public relations. In America, the native place of advertising, in the speciality literature, there are two terms: "advertising" (meaning *reclamă*) and "publicity" (meaning *publicitate*). *Publicity* is considered "an unpaid form of advertising, a component and a first instrument of the public relations"(Kincaid, 1985, p. 362). Therefore, the differences between them are fundamental. The confusion created is due to translations because in at least three major languages: French, Spanish and Portuguese, there is only one term for *advertising* and *publicity.* Unfortunately, the law does nothing but support the confusion and even it emphasizes it by considering publicity as a way to promote the sales.
- there are no references to the character of this presentation, whether it is paid or not and by whom;
- there are no references regarding the transmission channel.

In order to clear up the content of the concept of advertising, we will use the international reference marketing paper and we state that "publicity (read advertising) is any impersonal form of presentation and promotion of some ideas, goods or services, paid by a precisely identifiable sponsor" (Kotler, 1997, p.756).

We will use too in this paper, for the sake of simplicity, the term of publicity meaning advertising.

In the introduction of the law the following terms are also defined: misleading publicity, comparative publicity, seller, code responsible, behaviour code, audiovisual commercial communication.

This law has as declared objective the protection of the sellers against the misleading publicity and its consequences. The law regulates the way in which the comparative publicity can be used. The emphasis is placed on the sellers and their protection and not on the consumers.

According to this law, the comparative publicity is accepted in Romania if it complies with some "common sense" conditions but which, we consider, are difficult to comply with and control. These conditions are:

a. it is not misleading;

b. it compares goods or services satisfying the same needs;

c. it compares objectively one or several relevant, verifiable and representative features of goods and services as well as the price;

d. it does not discriminate or denigrate the brands, the commercial titles, other sellers' the goods services;

e. in the case of products with origin name, it refers in each case to the products bearing the same name.

f. it does not take disloyal advantage from a brand's reputation, the commercial name, or another distinctive sign or origin name of the products in competition;

g. it does not present goods or services imitating other brands;

h. it does not create confusion among the sellers, brands, commercial names or other distinctive signs.

When advertising is made, it will take into consideration the following: what it suggests to the consumer and which the real qualities of the promoted product or service are. The measures to be taken can require:

- to stop making untruthful statements or
- to provide more information to the consumers or
- to broadcast a "refutation" advertising.

Historically speaking, the exaggerations, the *bragging* were considered empty words, normal for a seller. Terms like "the best" or "the greatest" etc. were considered normal sale terms. They were considered forms of personal opinions (of the sellers, of those stating this) and were not subdued to regulations.

The most difficult is to compare objectively the characteristics of the own product or service with that of the competition. The use of publicity has led to abuses, in most cases, because no one can be fully objective when it is about their own interests. Comparing brands remains a controversial problem. This practice began in 1950 in the USA when the housewives began to compare their favourite washing

powder with the mysterious brand X. In 1971, the Federal Trade Commission, the body regulating the advertising in the USA, encouraged this practice, hoping to support the consumers in making the best choice. This led to the situation that, until 1987 more than one of the advertisements was alluding to the competition. Several doubtful practices in the field, through which the competition was denigrated, there were quasi-scientific demonstrations with advantageous conclusions for the announcer led to the appearance of law of 1988 which was avoiding "bad interpretations of another person's goods or services, or commercial activities" (Bovée and Arens, 1992, pp. 228-229).

In Chapter II, art. 5 of the same law, the following aspects are analysed to see whether publicity is misleading: the product features, manufacturing manner, price, the rights, attributions and the nature of the manufacturer promoting the product. Yet, it is not mentioned how this research, laboratory analyses are done due to the fact that the mass-media is invaded by advertising messages whose **untruthfulness** nobody doubts. Moreover, used to the commercial exaggerations (read misleading publicity) most of the individuals have developed their own system of protection – so that this publicity has become, to a certain extent, inoffensive. This thing, though, does not exclude the obligation of the law to forbid and punish such practices.

In the end, there are references to ***Law no148/2000- the law of publicity,*** which has as reformulated objective "the protection of the goods and services consumers, the protection of the individuals performing a production or trade activity, providing a service or perform a work or a profession".
We notice in this case, in the formulation, the priority given to the protection of the consumers.

The two laws regarding the publicity are extremely generously completed by *Law no 363/21.12.2007 regarding the fight against the incorrect policies of the traders in the relation with the consumers and the harmonization of the regulations with the European legislation regarding the protection of the consumers.*
We could say that law no 363/2007 comes up with absolutely necessary details needed for the understanding *in the light of the law* of the misleading publicity.

Title I defines and forbids some incorrect commercial practices, ensuring the transposition of the provisions of the Norm 2005/29/EC of the European Parliament and of the European Council of May 11, 2005 regarding the disloyal commercial practices of the enterprises on the domestic market in relation to the consumers and the change of the Norm 84/450/CEE of the Council, of the Norms 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council, and of the Regulation (EC) no 2006/2004 of the European Parliament and of the Council ("The norm regarding disloyal commercial practices"), published in the Official Journal of the European Union no L 149 of June 11, 2005.

Title II changes some normative documents regarding the protection of the consumers.

Law no 363/21.12.2007 defines notions like: product, consumer, trader, behaviour code, the trader's practice, misleading commercial practices and aggressive commercial practices and establishes the penalties to be applied in case these norms are broken.

The commercial practice is considered, according to this law, as *"being a misleading action if it contains false information or, in any situation, including the general presentation, misleads or it is susceptible of misleading the average consumer, so that, in both situations, either it determines or it is susceptible of determining the consumer to make a purchasing decision that otherwise he would not have made, even though the information is, actually, accurate in relation to one or several elements".*

In the advertising message, the information regarding the warranties given to the clients must be in accordance with *Law no 449/2003 regarding the sale of goods and the warranties associated to these, or the risks that the consumer may encounter.*

It can be debatable the provision of *Law no363/21.12.2007* which stipulates that *"a commercial practice is, also, considered as being a misleading action if, in the context of the actual situation, taking into consideration all the characteristics and circumstances, determines or it is susceptible of determining the average consumer to make a decision to purchase that otherwise he would not have made."* In other words, it is considered to be misleading an action determining or which might determine the consumer to make a purchase that in other conditions he would not have made it.

Actually, most of the promotion is based on the creation of a need more than on the awareness and then its satisfaction. The promotional message has the role of leading the prospective client through all the stages from attraction, information to persuasion and purchase. Therefore, as a result of the promotional actions, the consumer makes, directly or indirectly, on the spot or in time, the decision to purchase, based on the existence or not of a need, therefore it is manipulated in order to determine a certain behaviour. The question is: How can anyone choose between the publicity which only satisfies the need for information and the publicity creating needs? In these situations, the stipulation of the law becomes useless and inapplicable.

Other mentions of the law condemn the omission of some information in the advertising message which is essential for the client or the obviously unclear presentation so that they cannot be traced. Here we can exemplify some practices

breaking the law, like the presentation in small characters of certain information or the sending of information in an unintelligible manner.

Also, the law mentioned above states that it is forbidden "*to create, operate or promote a pyramidal promotional system that a consumer takes into consideration due to the possibility to be awarded, which comes especially from the introduction of another consumer in the system than as a result of the purchase or use of the products"*. The statement is slightly ambiguous because it is not obvious whether it refers to the free-word-of-mouth promotion, sometimes awarded, or to the network sale, without stores.

(Sponsorship) *"is a communication instrument allowing the direct connection of a brand or of a company to an event attractive for a certain public"* (Shanoun, 1990, p. 26) and (Curta, 1993, p. 30).

In Romania the **sponsorship** has been made in organized manner since the early 1990 through "The Romanian Association of Sport Sponsorship".

The legislative frame favouring and allowing the performance of this activity contains: *The Order of the Minister of Finance, no 994 of August 2 1994, regarding the approval of the Instructions regarding the implementation of Law 32/1994 regarding the sponsorship,* published in the Official Monitor of Romania no 210 of August 11 1994; *Ordinance no 36 of January 30, 1998 for the change and supplement of Law no 32/1994 regarding sponsorship,* published in the Official Monitor of Romania no 43 of January 30, 1998;

In Romania there exists the Romanian Council for Publicity/Advertising as a single self-regulating body, having the objective to represent the interests of the advertising industry in the relation with the Romanian authorities, regarding the aspects which are not regulated by the law. The Romanian Council for Publicity/Advertising drew up the "Code of Practice for Publicity" having the objective to establish ethical rules of professional behaviour in this field.

Regarding the use of the *media channels* for the sending of the promotional message, there are for the TV channels the following legislative measures under the shape of the CNA Decisions, CNA Norms, Orders and laws (Law 504/11.07.2002 regarding the audiovisual).

Resolution no130/ 2.03.2006 regarding the code of the audiovisual content regulation contains the following titles:

- Title I- The protection of children's rights;
- Title II- The protection of human dignity and of the right to own image;
- Title III- The right to retort and rectification;
- Title IV- The assurance of an accurate information and pluralism;
- Title V- Cultural responsibilities;

- Title VI- Games and contests;
- Title VII- Sponsorship, publicity and TV-shopping;
- Title VIII- Sanctions and final provisions.

In Article 108 "it is forbidden any type of promotion of some products or services suggesting to the public or instigating them to give up other similar or resembling products or services, based on the fact that the latter become useless or improper to be used". Our observation is that almost all the TV-shopping programmes in Romania are based on the comparison between the promoted product and other products (no name) but which, under the aspect of their functions, are well spread and known. The instigation to give up the old products is implicit or explicit.

In Article 110, it is mentioned the admittance of the comparative publicity only on the condition of compliance with the provisions of Law no 148/2000. Yet, even though the name of some similar products is not pronounced, the similitude, under the aspect of characteristics, suggests what products it is about.

The content of the publicity/advertising materials is regulated by Law no 111 of 21.11.1995 regarding the establishment, organization and operation of the Legal warehouse of printings and other graphic and audiovisual documents and Law no 594 of 15.12.2004 for the change and completion of Law no 111/1995 regarding the establishment, organization and operation of the Legal warehouse of printings and other graphic and audiovisual documents.

3. The regulation of sales promotion

The Romanian speciality literature provides a definition for the sales promotion, valuable in its vision: "the sales promotion corresponds to an assembly of techniques which have in view the *enrichment* of the offer by adding a supplementary value at the level of the product, price and distribution, on a limited period of time, taking into consideration the commercial objectives of the firm and having the goal to win a temporary advantage ahead of the competition" (Balaure, Popescu et.al, 1994, p. 64).

Law no 650/2002 regarding the products on the market of 07/12/2002 Published in the Official Monitor, Part I no. 914 of 16/12/2002 for the approval of the Government Ordinance no 99/2000 regarding the sale of products and services on the market covers to a great extent the actions to promote the sales, respectively: sales at a reduced price (sold out, clearance sale, in the factory outlets or factory warehouses, *promotional sales*, price reductions for the products which after three months from supply have not been sold, price reductions for the perishable goods, price reductions

determined by the competition or imposed on the market), the direct sale - multilevel marketing, advertising lottery, the organization of contests etc.

The current law establishes the general principles regarding the organization of the commercial activity and has in view the development of the distribution network of the products and services on the market, in compliance with the principles of the free competition, the protection of life, health, safety and economic interests of the consumers, as well as of the environment.

According to *O.G. no 99/2000* the *promotional sales* are defined as being those taking place in any period of the year without being the object of any notification, on condition that:

a) not to refer to products and services launched for the first time on the market;
b) not to bring a loss;
c) to refer to the products available and re-suppliable, as well as to services provided regularly;
d) the period of price reduction should be announced;
e) the products and services promoted should exist for sale the entire period of price reduction announced.

(1) The trader who wishes to promote in a certain period a category of products available must renew or complete that particular stock in order to wholly satisfy the demands on the entire period announced.

Common rules regarding the advertisements of price reductions

The sales stipulated in article 18, as they are defined by the current ordinance, are subdued to the following rules regarding the fixation and publicity of prices when the consumers are informed about a price reduction which comports a comparison expressed in figures:
a) Any trader who announces a price reduction must refer to the price practised previously in the same selling space for identical products or services. The reference price represents the lowest price practised in the same selling space during the last 30 days before the date when the reduced price is applied.
e) It is forbidden that a price reduction for a product and/or service be presented to consumers as a free offer of a part of the product and/or service.
f) All the justifying legal documents certifying the truthfulness of the reference price must be kept in order to be presented as many times as requested by the certified control bodies.
g) Any advertisement of price reduction which does not correspond to the

> reduction practised effectively in relation to the reference price is considered a form of misleading publicity and it is punished in accordance to the legal regulations in force.
>
> (2) These rules are not applied when the price reductions on product result from the growth of the product quantity contained in the package normally used.

As it can be seen, the promotional sales must not refer to the products and services launched for the first time on the market. Paradoxically, in the Romanian practice there are numerous cases when the promotional sales, translated into a price reduction, are motivated by the launch of new products or services.

Another mention of the law, that any advertisement that does not correspond to the reduction effectively practised in relation to the reference price is considered a form of misleading publicity, is subtly broken. The sticker stuck on the stores windows informing that there is a price reduction of … seldom it does not correspond to the reality because, either it is applied only to some unspecified products or there is a percentage interval applied according to the good will of the traders (art.20).

The law regulates the way in which the distance sales are organized, a field in which there were many abuses in Romania. Regarding the distance sales, in Romania worked (and maybe it is still working) a fraudulent practice which generated a lot of disappointment, reticence and rejection towards this type of promotion. Fliers sent by post informed the receivers that they had won important prizes, on condition they should call a certain phone number (with 98..) with a high tariff. Intentionally, somewhere isolated on the flier there was an explanation that there would be a subsequent lottery in order to find out the winners. Another illicit form of direct sale required the receivers to purchase different items, a thing which ensured them almost certainly the access to a big prize, through lottery (see art.48 Lotteries, art.53)

In article 58, 59 the subject of conditioned sales is developed, a practice forbidden now but used before 1990. In the field of tourism there has been debated whether the sale of a package of services can be assimilated to the conditioned sale. In the "Hotel Contract" required by practices, the right of the hotel manager to request the integral payment of a package of services (accommodation, meals, supplementary services) has been long debated, in the conditions when the client requests and uses only some of them (Stănciulescu, 2003, p.289). Well, according to the law, the hotel manager has this right to the extent to which he announces previously, clearly, the component of the product and the price. It is obvious that the economic efficiency and the marketing principles which presuppose the satisfaction of the consumers require that the hotel manager offer alternatives of singular services and in as many

combinations as possible. In the past, some hotel managers tried to impose the inclusion of the meals in the tariffs of the guests, but with negative effects on the consumers' satisfaction.

Regarding art.54, which allows the organization of contests where the prizes won due to the abilities of the participants and not due to hazard, the practitioners have found ways to elude the law. Therefore, there are contests organized which require the answer to questions which are either suggested or very simple. The practice of the forced sales was and still is very common in Romania (art.60, point a), when the consumers are forced to either pay for something they did not order or to go to the post office to return it. Based on this physical and time effort, to which the psychological difficulty to return a thing which had been owned is added, the offer suppliers count on a low return rate.

Directive 2005/29/EC recently come into force in Romania and other European states is restricting even more the promotional actions of the traders in order to eliminate the misleading practices. This directive is yet very criticised. Directive 2005/29/EC raises problems because of the manner of wording and of the consequences for the traders. This Directive includes in the category of misleading commercial practices "the description of a product as being "free", "no costs" or in a similar manner, in the case when the consumer must stand other costs, apart from those inevitably coming from answer to the commercial practice and from the payment for the delivery or the acceptance of the product". According to these wordings the usual practices of sales promotion would be affected in their vast majority. They, based mainly on the stimulation of acquisitions by adding a supplementary advantage like "a supplementary quantity of the same product for the same price", "a free product for two purchased", "a cheaper product if it is purchased in a package with others", "a free accessory for a purchased product" and many other forms. According to the Directive mentioned, all these practices would become illegal because, in reality, nothing from which is offered is free but it conditions the consumer to purchase something. In reality, the price of the product offered covers the price of the product offered as a "present".

Decision no 947/13.10.2000 regarding the way to indicate the prices of the products offered to consumers for sale (Directive 98/6/EC) has as objective the insurance of a full, accurate and precise information of the consumers, "which should allow the easy comparison of the prices".
The responsibility to indicate the price is of the seller. A first rule is that the selling price and the price on the unit of measurement is expressed in lei. The sellers can offer also information regarding the prices in other foreign currencies, but these must be clear and easy to understand. The selling price and the price on the unit of measurement is indicated in a clear, readable and identifiable form. This means that

the tricks used by some traders which show a price, but in small letters, add a VTA or they write the net and gross prices, which are illegal.

The expenses regarding the delivery, packaging and shipment services can be mentioned separately, on the condition that these are clear, easy to identify and readable.

The indication of prices is made so that the consumer which is in the selling surface can see them in the presentation points without asking the seller. When the prices are in the external shop windows, these are indicated so that the consumer can easily see them without entering the store. This stipulation of the law too is frequently broken.

The indication of the selling price and/or the price on the unit of measurement is compulsory for any type of publicity in which there is a reference to price. The prices are indicated on products or next to them or they can be written on a list or in a catalogue, together with the prices of other products, in their immediate proximity. In the case of distance sale it is compulsory to inform about the selling price and the price of the unit of measurement. The offers of price reductions, launched by the traders who practise the correspondence sale, may be available only until the stock clearance, on the condition that this mention is visible and readable in the catalogue.

4. The regulation of brand promotion

The national legislation in force in the field of brands and geographical indications contains: Law no 45/2004 regarding the temporal brand, Order 63/2008 for the service The envelope of ideas, Law no. 5/8.01.1998 for the ratification of the Protocol referring to the Madrid Arrangement regarding the international recording of brands, adopted at Madrid, on 27 June 1989. Also, Romania is part of a series of agreements and multilateral treaties in the filed of brands and geographical indications **(**http://www.rodall.ro/content/legislatia-in-vigoare.htm**) .**

Law no 5/8.01.1998 stipulates that, in the case when a request to register a brand was handed in at the office of a contracting party or in the case in which a brand was registered in the office's register of a contracting party, the person who is the solicitor of this request or the holder of this registration can, under the reservation of the stipulations of this protocol, ensure the protection of his brand on the contracting parties' territory, obtaining the registration of this brand in the The World Intellectual Property Organization, called international registration, that is, the international register, the International Bureau and Organization, with some reservations.

According to Law no 84/30.03.1998 regarding the brands and geographical indications the **brand** is defined as being; "a susceptible graphic representation sign serving to the differentiation between the products and services of a natural person or of a corporate body from those belonging to other people. It can be considered brands distinctive signs such as: words, including names of persons, drawings, letters, numbers, figurative elements, three-dimensional shapes and, especially, the shape of the product or its packaging, combinations of colours, as well as any combination of

these signs". There are also defined: the previous brand, the notorious brand, the collective brand, the certification brand, the geographical indication, the petitioner, the holder, the authorised mandatory. The right over brand is obtained by registration to the State Office for Inventions and Brands. Next, there are mentioned the reasons for which a brand is rejected from registration. Here we enumerate: the resemblance with the existing brands, the they contain some famous names for which there is no agreement of usage, the brands contain confusing elements which can mislead the public etc. In Chapter IX there are references to the international registration of brands and the avoidance of counterfeits.

We appreciate the legislative efforts, but the Romanian market abounds in brands which sell for the simple reason that they are taken for others, resembling, which have already obtained their fame. The pertinent question is how those pseudo-brands were registered, either in Romania or in another country or if they are not registered, why are they on the market?

5. Conclusions

The analysis of the legislation regulating the components of the marketing communication has emphasised three types of problems:

- on one hand, the existing legislation, through the wording and treatment manner of the aspects concerning the communication does not start from a common understanding ground either for theoreticians or for practitioners. This thing makes it difficult to check when applicable in practice;
- on the other hand, the existing legislation does not cover the practices in the field, the difficulty or the impossibility to frame the practices within a category or another leading to abuses;
- where there is a clear regulation and the law is broken, there is no sufficiently developed and/or vigilant control device in order to correct or eliminate the dubious practices.

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Law no 111 of 21.11.1995 regarding the establishment, organization and operation of the Legal warehouse of printings and other graphic documents and audiovisuals

Law no 363/21.12.2007 regarding the fight against the incorrect policies of traders in the relation to the consumers and the harmonization of the regulations with the European legislation regarding the protection of the consumers

Law no 449/2003 regarding the sale of products and warranties associated to them, or the risks that the consumer may encounter

Law no 5/8.01.1998 for the ratification of the Protocol referring to the Madrid Arrangement regarding the international registration of brands, adopted at Madrid on 27 June 1989

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Ordinance no 36 of 30 January 1998 for the change and completion of Law no 32/1994 regarding sponsorship published in the Official Monitor of Romania no 43 of 30 January 1998

http://www.rodall.ro/content/legislatia-in-vigoare.htm